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RESOLUTION NO. R-77-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF COLTON APPROVING THAT CERTAIN DISPOSITION
AND DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF COLTON AND LUMAR DEVCO, LLC, AND THE
SALE OF REAL PROPERTY PURSUANT TO THAT
DISPOSITION AND DEVELOPMENT AGREEMENT AND
TO AMEND THE FISCAL YEAR 2016-17 BUDGET TO
INCREASE REVENUES ASSOCIATED WITH THE
TRANSACTION**

WHEREAS, the City of Colton ("City") is in the process of purchasing approximately 40,615 square feet (0.93 acres) of real property located at 1595 West Valley Boulevard, in the City of Colton, County of San Bernardino, State of California (APN 0254-191-09) ("Berki Parcel"); and

WHEREAS, the City is also in the process of purchasing approximately 88,862 square feet (2.04 acres) of real property previously designated as Valley Boulevard, located to the east of Pepper Avenue, in the City of Colton, County of San Bernardino, State of California (APN 0254-191-11) ("County Parcel"); and

WHEREAS, California Government Code Section 37350 provides that a city may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of it for the common benefit; and

WHEREAS, the City has negotiated the terms of that certain Disposition and Development Agreement (Valley & Pepper), a copy of which is attached to this Resolution as Exhibit A and incorporated herein ("Agreement"), with Lumar Devco, LLC., a California limited liability company ("Developer") providing for, among other things, the transfer of the Berki Parcel and the County Parcel by the City to the Developer and Developer's redevelopment of the Property as quick services restaurants or casual dining, or other retail uses acceptable to the City ("Project"); and

WHEREAS, the Agreement implements the goals and objectives of the City for the disposition and use of the Property for the common benefit of the City and its citizens, and City desires to enter into the Agreement; and

WHEREAS, City staff has determined that the Seller's conveyance of the Property to City is exempt from the requirements of the California Environmental Quality Act ("CEQA"), pursuant to State CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that the mere transfer of title to the Property from the Seller to the City will not have a significant effect on the environment.

WHEREAS, on July 5, 2016, the City Council adopted Resolution No. R-70-16 authorizing the adjustment to the Fiscal Year 2016-17 budget, for an appropriation of \$1,600,000

1 plus estimated closing costs of \$8,000 for associated expenses related to that certain Purchase and
2 Sales Agreement for the Berki Parcel from the Colton Electric Utility Rate Stabilization Reserve
Account Number 520-8000-8001-4960-0000-000; and

3 **WHEREAS**, on July 5, 2016, the City Council adopted Resolution No. R-69-16
4 authorizing the adjustment to the Fiscal Year 2016-17 budget, for an appropriation of \$1,134,000
5 plus estimated closing costs of \$6,500 for associated expenses related to that certain Purchase and
6 Sales Agreement for the County Parcel from the Colton Electric Utility Rate Stabilization
Reserve Account Number 520-8000-8001-4960-0000-000; and

7 **WHEREAS**, a budget revenue increase from the sale of the Berki and County Parcels to
8 the Developer, not listed in the 2016-17 Fiscal Year budget, is required and must be approved by
resolution of the City Council.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**
10 **CITY OF COLTON:**

11 **SECTION 1. RECITALS.** The City Council does hereby find and affirm the above-
12 noted recitals are true and correct and hereby incorporated in the body of this Resolution as if
restated in full.

13 **SECTION 2. APPROVAL OF AGREEMENT.** The City Council hereby approves the
14 Agreement and the conveyance of the Properties from the City to Developer pursuant to the terms
15 and conditions set forth in the Agreement. The City Council hereby authorizes and directs the
16 City Manager (with the concurrence of the City Attorney) to execute and deliver on behalf of the
City the Agreement and any documents and instruments as may be necessary or convenient in the
furtherance of the actions authorized by this Resolution.

17 **SECTION 3. CEQA COMPLIANCE.** The City's approval of the Agreement and
18 adoption of this Resolution is exempt from the California Environmental Quality Act (Pub. Res.
19 Code § 21000 et seq.: "CEQA") because the Agreement is a land acquisition agreement and the
20 City has conditioned future use of the site on CEQA compliance. (14 C.C.R. § 15004(b)(2)(A).)
21 The City's approval of this Agreement does not constitute approval of any site-specific
22 development plan for the Property, or other activity on the Property, that would have a direct or
23 reasonably foreseeable indirect environmental impact pursuant to CEQA. (14 C.C.R. §
24 15378(b).) The City's approval of the Agreement results in a mere transfer of the Property from
25 the City to the Developer. As more fully explained in the Agreement, Developer's future use
26 and/or development of the Property is expressly conditioned upon CEQA compliance. The City
shall conduct environmental review pursuant to CEQA prior to taking any discretionary action
with regard to any proposed development of the Property. Nothing in the Agreement or this
Resolution shall be construed to limit the City's discretion to consider and adopt any mitigation
measure or project alternative, including the alternative of rejecting any proposed development of
the Property, as provided in section 21002 of the Public Resources Code. Following completion
of the City's environmental review of any proposed development of the Property, the City shall
file a notice of such approval as provided in section 21152 of the Public Resources Code.

SECTION 4: CEQA NOTICE OF EXEMPTION. The City hereby directs staff to prepare, execute and file a Notice of Exemption for the City within five working days of the passage and adoption of this Resolution.

SECTION 5. INCREASE IN CITY REVENUES. The City Council authorizes this amendment, and adjustment to the Fiscal Year 2016-17 budget, increasing revenues in the amount of \$2,748,500 from the sale of the Berki and County Parcels to the Colton Electric Utility Rate Stabilization Reserve Account Number 520-7801-000.

SECTION 6: SEVERABILITY. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. City declares that City would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 7: CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Resolution and the same shall thereupon take effect and be in force immediately upon its adoption.

SECTION 8: EFFECTIVE DATE. The Mayor shall sign this Resolution and the City Clerk shall attest thereto, and this Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2016.

Richard A. DeLaRosa, Mayor

ATTEST:

Carolina R. Padilla, City Clerk

1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**) ss
3 **CITY OF COLTON**)

4 **CERTIFICATION**

5 **I, CAROLINA R. PADILLA**, City Clerk of the City of Colton, California, do hereby
6 certify that the foregoing is a full, true and correct copy of **RESOLUTION NO. R-77-16**,
7 duly adopted by the City Council of said City, and approved by the Mayor of said City, at its
8 Regular Meeting of said City Council held on the **19th day of July, 2016**, and that it was
9 adopted by the following vote, to wit:

10	AYES:	COUNCILMEMBER	Toro, Jorrin, Navarro, González, Bennett,
11			Suchil and Mayor DeLaRosa
12	NOES:	COUNCILMEMBER	None
13	ABSTAIN:	COUNCILMEMBER	None
14	ABSENT:	COUNCILMEMBER	None

15
16 **IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal
17 of the City of Colton, California, this _____ day of _____, 20____.

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21 _____
22 CAROLINA R. PADILLA
23 City Clerk
24 City of Colton

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28 (SEAL)